

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JANE DOE 1, et al.,

Plaintiffs,

v.

KIRSTJEN NIELSEN, et al.,

Defendants.

Case No. [18-cv-02349-BLF](#)

ORDER DENYING MOTION TO STAY

[Re: ECF 143]

On December 26, 2018, the Government filed a motion to stay the action because the appropriations act funding the Department of Justice, the Department of State, and several other Executive agencies expired on December 21, 2018. Mot. at 1, ECF 143. The Government requests the Court stay the case until funding is restored. The Government believes its attorneys are barred from working, even on a voluntary basis, because this case does not involve “the safety of human life or the protection of property” necessary to warrant providing voluntary services. *See id.* at 1 (citing 31 U.S.C. § 1342). Plaintiffs oppose this request (in its entirety, after January 7) “given that it would indefinitely delay the resolution of this case, which involves the livelihood of persecuted Iranian religious minorities.” Opp. at 2, ECF 144. Plaintiffs argue that a Court order denying the stay “would constitute express legal authorization for the activity to continue,” permitting the Government attorneys to continue working on the case. *Id.* And Plaintiffs note they are willing to “discuss[] reasonable changes in deadlines and case management to accommodate” the Government’s needs. *Id.*

The Court finds that a stay here would be inappropriate. This case centers around Notices of Ineligibility issued by the United States on or about February 19, 2018 denying the applications of approximately 87 Iranian refugees. Those refugees are currently “in limbo” in Vienna,

1 Austria—unable to return to Iran for fear of persecution and unable to come to the United States
 2 due to the Government’s unsubstantiated rejections of their applications for refugee resettlement.
 3 Summary Judgment Order at 5–6, ECF 87; Motion for Partial Summary Judgment at 7 (“MSJ”),
 4 ECF 25. Further delay could lead to Plaintiffs’ deportation back to Iran, where they fear
 5 persecution. MSJ at 7. The Court has previously recognized the need to resolve this action with
 6 haste, issuing a summary judgment and class certification order within three months of the filing
 7 of the Complaint.

8 Given Plaintiffs’ precarious situations, the motion to stay the case is DENIED. *Cf. Roman*
 9 *Catholic Archbishop of Wash. v. Sebelius*, No. CV 13-1441(ABJ), 2013 WL 5570185, at *1
 10 (D.D.C. Oct. 3, 2013) (denying motion to stay given lapse in appropriations because of time-
 11 sensitive nature of case and possibility of irreparable harm); *California v. Ross*, No. 18-cv-1865-
 12 RS, ECF 127 (denying motion to stay given lapse in appropriations on eve of trial). This Order
 13 constitutes express legal authorization for the Government to continue litigating this case. *See* 21
 14 U.S.C. § 1342 (barring voluntary services “exceeding that authorized by law”). Nothing in the
 15 Order should be construed to provide Plaintiffs permission to contact any counsel who have not
 16 appeared as attorneys in this case. The Government may request extensions of specific deadlines
 17 as the need arises.

18
 19 **IT IS SO ORDERED.**

20
 21 Dated: January 3, 2019



BETH LABSON FREEMAN
 United States District Judge